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APPLICANT: Thomas Hunot, et al.

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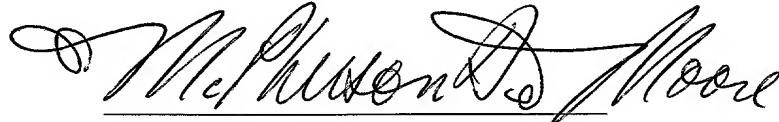
FOR: ROLLER GRILL ASSEMBLY FOR COOKING HUMAN FOOD

St. Louis, Missouri

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PRELIMINARY REMARKS

Sir:

This is a continuation of U.S. Patent application Serial No. 09/414,785 filed October 8, 1999. The claims have been submitted in this application in consideration of the rejections in the August 27, 2001, Office Action for the aforesaid parent application.

Please note that the subject matter of Claims 1 through 6 of the present application relates to Claims 1 through 9 of the parent application. The August 27, 2001, Office Action of the parent application rejected Claims 1 through 9 of the parent application based on the patent to Dolce [Pat. No. 2,604,842] in view of Kernick [Pat. No. 2,253,434]. However, please note that the present Claims 1-6 call for a drive sprocket driven by a motor to pull a drive chain. Claims 1-6 call for the chain to be mounted to fit the sprocket teeth, with the sprocket teeth of the tubular members rotated by the driven chain. The August 27, 2001, Office Action of the parent application referred to the Dolce patent as having an idler member 38. However it is noted that the numeral 38 designates a “guide pulley” in the Dolce specification. The Dolce specification refers to idler members by the numeral 36. Please note that the two members 38 in Dolce have no sprockets and no positive engagement as provided by the chain/sprocket engagement of the claimed invention. Rather Dolce discloses only a belt. Dolce, column 3, lines 46-56, discloses a roller 54 which is required to be continuously urged against the belt 50 so that there is self-adjusting, constant-tension belt tightening required to effectively move the belt 50. Applicant’s claimed structure requires no such adjusting roller or the like. Applicant’s Claim 1-6, provide for a positive engagement chain and sprocket drive which is a vast improvement over the drive in the Dolce patent. Kernick does not disclose an idler sprocket. Indeed, Kernick even has a sleeve 19 that must bear against the chain 18 to take out slack. There is no suggestion of a teaching or motivation to modify the Dolce disclosure with the disclosure of Kernick. Kernick teaches away from such a modification. Such a teaching or suggestion to make the claimed combination and a reasonable expectation of success must both be found in the

prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP Section 2143-Section 2143.03. Therefore Claims 1-6 are respectfully submitted to be allowable.

Claim 7 of the present application corresponds to Claim 18 presented in Amendment A of the parent application, while Claim 8 corresponds to Claim 19 of the parent application. The August 27, 2001, Office Action for the parent application had rejected Claim 18 under 35 U.S.C. § 103 based on the Diggity Slant publication in view of Bardeau et al (Pat. No. 3, 472, 156). However this rejection does not address the fact that Diggity Slant does not provide for the tubular members to be arranged as a group at an angle of about 3° to 5° from the first ends of the frame to the second ends of the frame. Further, Claims 8 and 9 require that the holes in the first and second frames be horizontally aligned with one another, and the tubular members that extend from a hole in one frame to a hole in the other frame, as well as the axis of the tubular member, be horizontally aligned from side to side from the first frame to the second frame. In contrast, in Bardeau, the tubular members are not horizontally aligned. Rather in Bardeau the tubes themselves are slanted in an angle relative to the housing and frame structure. To the extent that it may be contended that Bardeau discloses an angle of about 3° to 5°, with the tilted mounting of the tubular members in Bardeau, a frankfurter or the like mounted on the tubular members slides downwardly by gravity from the higher end to the lower end during the heating process, to bunch up with one another. Bardeau discussed such gravitational descent in column 1, ls. 17-19; and column 6, ls. 60-67. Diggity Slant does not have such a gravitational feature, but rather has a horizontal alignment of the tubular heating members. There is no teaching or suggestion to

incorporate the angles of the tubes in Bardeau with their gravitational force action with Diggity Slants grill. The operations of the two are entirely different. Further, there is no teaching in the cited references of the Claim 8 requirement of an idler sprocket mounted to a support frame, with the idler sprocket central axis aligned with the axes of the other tubular members, so that all those axes extend at an angle of about 3° to 5° from the first ends of the frames to the second ends of the frames.

Claims 9-12 corresponds to Claims 24-27 as presented in Amendment A of the parent application. As noted hereafter, the present Claim 9 differs from said Claim 24. The August 27, 2001, Office Action rejected the said Claims 24-27 under § 103 over the publication of Berk's Roller Grill in view of the Senneville et al patent (Pat. No. 6,166,353) and Snyder et al patent (Pat. No. 3,756,219).

Neither Berk's nor Senneville disclose a pivotally mounted cover for covering a control panel for a roller grill, or for any cooking device. The device in the Snyder toaster is far different from that covered by Claim 9. Note that Claim 9 now provides for structure that was not present in Claim 24, such as the housing having side support frames each with a vertically extending wall, the cover also having a wall, and the pin being mounted to extend generally perpendicular to the walls of the housing frames, and to extend in a direction parallel with the cover wall. Such structure is not found in Snyder nor in the other cited references. Hence Claim 9 as well as dependent Claims 10, 11, and 12 are seen as being allowable. Moreover the suppositions made in the August 27<sup>th</sup> Office Action to the effect that the combinations where obvious simply because of the presence of a removable cover in Berk's and Senneville, the general statement that spring loaded covers where less prone to accidental opening, and were commonly known,

did not support a teaching of combining the references even as to Claim 24 of the parent application. In any event, any combination of the references does not teach the structure covered by present Claim 9.

Claim 13 corresponds to Claim 28 as presented in Amendment A of the parent application. However, Claim 13 now has additional language not present in Claim 28. Note that Claim 13 in paragraph (f) calls for the housing to have a wall located beneath the tubular cooking members and above the housing cavity that receives the pin. Claim 28 of the parent application was rejected in the August 27<sup>th</sup> Office Action under § 103 over Senneville. Senneville does not teach or suggest combining a roller grill with a plurality of tubular cooking members with the Senneville structure, and there is no teaching of such from the prior art.

Claim 15 depends from independent Claim 6, and has the requirements of additional structure for the tubular cooking members. Claims 16 and 17 depend from Claim 15.

Claims 18, 19, 20 and 21 correspond to Claims 48-51 as presented in Amendment A of the parent application. Claims 48-51 were rejected in the August 27, 2001 Office Action for the parent application, under § 103 over the Berk's publication in view of Senneville and Craver (Pat. No. 4,817,585). Neither Berk's nor Senneville disclose a pivotally mounted cover. Craver is to a nonanaligeus art of firebox door arrangements, and is not pertinent to the present roller grill invention. There is no suggestion in Senneville to pivotally mount a cover. Moreover, Craver discusses the member 108 as being a hinge, and not a spring. In any event, even if the member 108 is a spring, Craver does not disclose a spring with a first leg and a second leg, with a boss extending from

the first leg, and with the cover having an opening to receive the boss, with the cover also having structure against which the second leg can be placed so that with such placement the first leg is biased toward the opening in the first structure to press the boss through the opening, as called for in Claim 18. Nor are the structures called for in dependent Claims 19 and 20 disclosed or taught. Hence Claims 18-21 are submitted to be allowable.

Claim 22 corresponds to Claim 59 added by Amendment A in the parent application. Claim 22 calls for a drive assembly with drive chain, drive sprockets, tubular members with sprockets and idler sprocket, and is allowable for the reasons given with regard to Claim 1-6. Moreover, Claim 22 additionally calls for a means to pivotally mount a cover to the housing comprising a pin mounted to one of the cover or housing frame. Claim 22 has requirements in addition to those of the aforesaid Claim 59, in that the Claim 22 structure provides for side support frames for the housing with vertically extending walls, the cover having a wall, with the pin mounted to extend generally perpendicular to the wall of the housing frame with which the pin is mounted or received, and with the pin extending in a direction parallel with the wall of the cover. Hence Claim 22 is seen to be allowable, as such structure is not taught by the art of record.

Claim 23 corresponds to Claim 60 added by Amendment A. Claim 23 calls for the drive assembly with drive chain, drive sprockets, tubular members with sprockets, and idler sprocket such as submitted as patentable in Claim 1-6. Claim 23 further requires a pivotally mounted cover for covering the control panel with a spring, having structure considered patentable for the same reasons as presented with regard to present Claim 18. Hence Claim 23 is seen to be allowable.

Claim 24 combines the structure of a drive chain assembly with idler sprocket such as set forth in Claims 1-6, plus the slidably mounted compartment with control panel covers of Claim 13, and hence is seen to be allowable. Claims 25, 26 and 27 depend from Claim 24 and are likewise allowable.

Claim 28 combines sealing/bearing assembly subject matter found allowable in the parent application, in combination with a slideable compartment assembly such as that to which Claim 13 is directed, and as hence is submitted to be allowable. Claims 29, 30 and 32 depend therefrom and are likewise allowable.

Independent Claim 32 is directed to a sealing/bearing assembly such as allowable in the parent application, in combination with a pivotally mounted cover, and is seen to be allowable. Claims 33-37 depend therefrom Claim 32 and are submitted as in form for allowance seem to be allowable.

For the foregoing reasons, all the Claims presented with this application are submitted to be allowable. The references of record, neither individually nor in combination, teach or suggest the claimed subject matter.

Respectfully submitted,



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